

FINAL STATEMENT OF REASONS

The California Department of Corrections and Rehabilitation (CDCR) proposes to amend the following sections of the California Code of Regulations (CCR), Title 15, Division 3: Chapter 1, under Article 1.5, Section 3025; Subchapter 4, under Article 2, Section 3291, Article 3, Section 3296, and Article 4, Sections 3300 and 3301; Subchapter 5, under Article 1, Section 3383, and Article 2, Section 3397. The CDCR proposes to repeal under Subchapter 4, Article 4, Section 3302. All sections concern the CDCR Office of Correctional Safety (OCS).

The proposed amendments are largely “clean up” revisions to ensure that regulations remain consistent with governing statutes, the major reorganization of CDCR in 2005 and subsequent changes to duties and responsibilities within the Department. Outdated position titles and office designations are removed or replaced with current titles and designations. Authority and Reference citations are added or amended where necessary.

DETERMINATION:

The Department has made an initial determination that the action will not have a significant adverse economic impact on business. Additionally, there has been no testimony or other evidence provided that would alter the Department’s initial determination.

ASSESSMENTS, MANDATES, AND FISCAL IMPACT:

The Department has determined that this action imposes no mandates on local agencies or school districts, or a mandate, which requires reimbursement pursuant to Part 7 (Section 17561) of Division 4.

The Department has determined that no reasonable alternatives to the regulations have been identified or brought to the attention of the Department that would lessen any adverse impact on affected private persons or small business then the action planned.

The Department has determined that no alternative considered would be more effective in carrying out the purpose of this action or would be as effective, and as less burdensome to affected private persons than the action proposed.

The Department, in proposing amendments to these regulations, has not identified nor has it relied upon any technical, theoretical, or empirical study, report, or similar document.

SPECIFIC PURPOSE OF EACH SECTION PER GOVERNMENT CODE 11346.2(b)(1)

The specific purpose of each amendment, and the rationale for the determination that each amendment is reasonably necessary to carry out the purpose for which it is proposed is as follows:

Section 3025. Department of Justice DNA and Forensic Identification Database and Data Bank Program.

Subsections 3025(a) through (k) are unchanged.

Subsection 3025(l) is amended to replace the position title “assistant director, Law Enforcement Investigative Unit” with “Assistant Secretary, Office of Correctional Safety.” This is necessary because the former position and office no longer exist due to Department reorganization. The powers and duties of the former position and office, as they relate to this Section, are now vested with the latter position and office.

Subsection 3025(m) is unchanged.

Section 3291. Employee Law Enforcement and Peace Officer Personnel

Subsection 3291(a) is unchanged.

Subsection 3291(b) is amended to replace the position title “director of corrections” with “Secretary of the CDCR”. This is necessary because the former title no longer exists due to statutory changes. Pursuant to Penal Code (PC) section 5054, the powers and duties of the former position are now vested with the latter position.

Subsection 3291(c) is amended to make the regulations consistent with recently enacted PC section 830.2(d)(1), which defines the peace officer authority of Office of Correctional Safety (OCS) employees, and PC section 830.5. Additional amendments specify the Government Code sections that provide authority for CDCR peace officers during state emergencies and activations of state mutual aid agreements.

Subsections 3291(d)-(f) are unchanged.

Section 3296. Escape Pursuit Plan.

Section 3296 is amended to remove the position title “superintendent,” which no longer exists due to Department reorganization. Outdated and unnecessary text providing a comment reference has been deleted. In addition, an Authority and Reference citation has been added where there was previously none.

Section 3300. Prevention of Disorders.

Section 3300 is amended to remove the position title “superintendent,” which no longer exists due to Department reorganization. Outdated and unnecessary text providing a comment reference has been deleted. In addition, an Authority and Reference citation has been added where there was previously none.

Section 3301. Emergency Operations Plan.

Section 3301 is amended. This section previously described the Department’s Disturbance Control Plan. This plan and the Emergency Preparedness Plan (Section 3302, see below), have been combined into a single Emergency Operations Plan (EOP). Therefore, this section is renamed Emergency Operations Plan. Amended text

specifies that the OCS Emergency Planning and Management Unit (EPMU) must approve each CDCR correctional institution's EOP, and that the EOP must assist in the preparation for and response to significant "All Hazards" incidents. "All Hazards" incidents are any natural or manmade disasters or accidents that may disrupt institutional operations or programs. In addition, outdated and unnecessary text providing a comment reference has been deleted.

Lastly an Authority and Reference citation has been added where there was previously none.

Section 3302 which was titled Emergency Preparedness Plan is repealed. Section number 3302 has been reserved for future use. This section previously described the CDCR Emergency Preparedness Plan. This plan has been replaced by the CDCR Emergency Operations Plan (see Section 3301 above). The EOP contains confidential operational procedures which, if they were known to the inmate population, the general public, or non-custody staff, could jeopardize the safety and security of institution staff and inmates. Such sensitive tactical security information is protected from public disclosure by Government Code Section 6254. Therefore, this section is repealed.

Section 3383. State of Emergency.

Subsection 3383(a) is unchanged.

Existing subsections 3383(b), 3383(c) and 3383(d) are renumbered 3383(c), 3383(d) and 3383(e), respectively. This is necessary for better organization and to accommodate new subsection 3383(b).

New Subsection 3383(b) is adopted to specify that the Assistant Secretary, OCS, shall be notified when a state of emergency is declared. This is necessary because the Assistant Secretary, OCS, has oversight of the CDCR Departmental Operations Center, which is a crucial part of the Department's emergency response process.

Section 3397. Emergencies.

Section 3397 is amended to remove the position title "superintendent," which no longer exists due to Department reorganization. Outdated and unnecessary text providing a comment reference has been deleted. In addition, an Authority and Reference citation has been added where there was previously none.

PUBLIC HEARING COMMENTS:

A public hearing was held on April 1, 2011 at 10:00 a.m.

No comments were received at the hearing.

SUMMARIES AND RESPONSES TO WRITTEN PUBLIC COMMENTS:

No written comments were received.